

Exhibit V

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MARIANNE ANNISZKIEWICZ,

Plaintiff,

v.

Index: 20-cv-6629 (FPG) (MWP)

THE CITY OF ROCHESTER, a Municipal Entity, POLICE
OFFICER BRIAN CALA, SERGEANT JENNIFER TRENTON,

Defendants.

Deposition Upon Oral Examination of:

Officer Brian Cala

Location: The Powers Building
16 West Main Street, 8th Floor
Rochester, New York 14614

Date: November 8, 2022

Time: 10:00 a.m.

Reported By: CHRISTINE VIGNA

Alliance Court Reporting, Inc.

109 South Union Street, Suite 400

Rochester, New York 14607

A P P E A R A N C E S

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* * *



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1 OFFICER BRIAN CALA - BY MR. SHIELDS
2 for their certified transcript charge, including any
3 expedite or other related production charges;

4 AND IT IS FURTHER STIPULATED, that the
5 Notary Public, CHRISTINE VIGNA, may administer the
6 oath to the witness.

7 * * *

8 OFFICER BRIAN CALA,
9 called herein as a witness, first being sworn,
10 testified as follows:

11 EXAMINATION BY MR. SHIELDS:

12 Q. Good morning, Officer. My name is Elliot
13 Shields. I represent a woman whose dog was shot and
14 killed. I'm going to ask you some questions today.

15 First I'm just going to go over the ground
16 rules for a deposition. Will you tell me if you don't
17 understand my question?

18 A. Yes.

19 Q. And will you tell me if you find my
20 question confusing?

21 A. Yes.

22 Q. And will you tell me if I've assumed an
23 incorrect fact in a question?

24 A. Yes.

25 Q. And will you tell me if you don't know the



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1 OFFICER BRIAN CALA - BY MR. SHIELDS

2 A. When you say "at the academy," do you mean
3 prior to graduating the police academy or do
4 you -- are you referring to any academy training such
5 as in-service or continued training?

6 Q. Let's take at the academy first.

7 A. So, I'm sorry. One more time with the
8 question.

9 Q. Sure.

10 At the academy, were you provided any
11 other training about how to avoid shooting a dog?

12 A. Not that I recall at the academy.

13 Q. Okay. After graduating from the academy
14 at your in-service training, were you provided any
15 training about how to avoid shooting a dog?

16 A. There were other options that were
17 mentioned as potential ways to deal with an aggressive
18 dog.

19 Q. What do you remember those options to be?

20 A. Trying to get space between you and the
21 dog. Striking the dog with something. Putting
22 something in the dog's mouth. Potentially
23 cap -- spraying the dog with pepper spray.

24 Q. Anything else?

25 A. Not that I recall at this time.



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1 OFFICER BRIAN CALA - BY MR. SHIELDS
2 training you had received mentioned pepper spray?

3 A. Yes.

4 Q. Were you taught that pepper spray is
5 effective on dogs?

6 A. I was taught that it is not always
7 effective on dogs.

8 Q. Sometimes it's effective on dogs?

9 A. Sometimes it's effective on dogs, yes.

10 Q. Did they tell you when it might be
11 effective on dogs versus when it might not be
12 effective on dogs?

13 A. No.

14 Q. What do you remember about them making
15 that distinction at that training?

16 A. Just that pepper spray affects dogs
17 differently. Different breeds of dogs are affected
18 differently. And it's -- it's an unknown as to
19 whether pepper spray would be effective when deployed
20 against an animal.

21 (The following exhibit was marked for
22 identification: Number EXH 2.)

23 Q. Okay. I'm going to switch to some
24 questions about the incident itself.

25 First I want to play the 911 call from the



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2 Q. People can view the same set of facts
3 differently?

4 A. Yes. That's correct.

5 (The following exhibit was marked for
6 identification: Number EXH 4.)

7 Q. Okay. So I want to play the beginning of
8 your body camera from this incident for you, which we
9 will mark as Exhibit 4 for this deposition.

10 So we're going to go back to the very
11 beginning. We are at the beginning of the video,
12 which starts at 11 a.m., 41 minutes and 52 seconds.

13 And before we start, Officer Cala, do you
14 recognize that -- from the numbers in the bottom right
15 corner as being your body-worn camera?

16 A. Yes, I do.

17 Q. Okay. And is it the same body-worn camera
18 footage that you viewed in preparation for your
19 testimony today?

20 A. Yes, it is.

21 Q. And depicted before we start the video, is
22 that Sergeant Trenton with the gate open?

23 A. That's correct.

24 Q. All right. I'm going to hit play and then
25 I'm going to ask you some questions after I pause it.



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2 I paused at 15 seconds into the video and
3 the time stamp is 11:42 and 7 seconds.

4 When you said "There it is. There it is,"
5 you believed that that was the stray dog that --

6 A. That's correct.

7 (The following exhibit was marked for
8 identification: Number EXH 5.)

9 Q. Okay. We'll come back to your video in a
10 little bit. That was my only question on that for
11 now.

12 I want to put up as Exhibit 5 your
13 interrogatory responses in this case and ask a couple
14 of questions on that for now. There we go.

15 All right. The interrogatory responses
16 will be Exhibit 5 for this deposition. And, Officer
17 Cala, just looking at the first page there, do you
18 recognize these as being your interrogatory responses?

19 A. Yes.

20 Q. And I'm first going to go down to
21 interrogatory number 5. And that says "Describe in
22 detail everything you did prior to entering
23 Ms. Anniszkiewicz's fenced-in yard to determine if
24 there were any dogs present in Ms. Anniszkiewicz's
25 yard."



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2 And your answer was "After Sergeant
3 Trenton shook the fence and we did not hear or see
4 anything, I followed Sergeant Trenton through the
5 gate."

6 A. Yes.

7 Q. Okay. One second.

8 Okay. So that's all. Anything else?

9 A. Nope.

10 Q. Okay. And I just want to play Sergeant
11 Trenton's video from the beginning. So that's Exhibit
12 3 where she shook the gate.

13 Okay. This is Exhibit 3 starting from the
14 beginning of the video. The time stamp is 11:41 and
15 45 seconds.

16 Okay. And we paused that video at 8
17 seconds in. And the time stamp is 11:41 and 53
18 seconds. Officer Cala, can you just basically
19 describe what you saw in those first 8 seconds?

20 A. It appears that Sergeant Trenton
21 approached the gate and shook the gate.

22 Q. And then what happened?

23 A. And then she -- nothing happened. She
24 opened it.

25 Q. So she shook the gate and then she opened



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2 the gate?

3 A. Within that eight-second time frame, yes.

4 Q. For the -- in the first few seconds, she
5 approached the gate before she started to shake it; is
6 that accurate?

7 A. That's accurate.

8 Q. So she shook the fence. Here, let's just
9 watch again. I want you to try to pay attention when
10 she started to shake the gate and then when she opened
11 it.

12 Okay. So we're at four seconds into the
13 video right now, right?

14 A. Uh-huh.

15 Q. Had she started to shake the gate yet?

16 A. She just put her hand on the gate.

17 Q. So at four seconds she just put her hand
18 on the gate.

19 I'm going to hit play again. The time
20 stamp is 11:41 and 48 seconds.

21 I paused it at 8 seconds again. That's
22 11:41 and 52 seconds. And at this point, has she
23 started to open the gate?

24 A. Yes.

25 Q. So in that four-second time period,



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1 OFFICER BRIAN CALA - BY MR. SHIELDS

2 Sergeant Cala shook the gate and began to open the
3 gate, right?

4 A. Sergeant Trenton.

5 Q. I'm sorry.

6 Sergeant Trenton?

7 A. Yes.

8 Q. How long did you wait before opening the
9 gate?

10 A. I didn't open the gate. She -- I don't
11 know how long she waited. A couple of seconds.

12 Q. Okay. In that four-second period,
13 Sergeant Trenton shook the gate and opened the gate,
14 correct?

15 A. That's correct.

16 Q. And then started to open the gate,
17 correct?

18 A. Yes.

19 Q. And then when you said maybe waited a
20 couple seconds, do you mean after the gate was opened?
21 What we haven't watched yet?

22 A. Did I say "waited a couple seconds"?

23 Q. I'm sorry. That's what I understood your
24 prior answer to be.

25 Why don't we -- let me withdraw that.



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2 So how many seconds did you and Sergeant
3 Trenton wait after shaking the fence before opening
4 the gate?

5 A. It appears there was two or three seconds
6 that elapsed.

7 Q. After she stopped shaking the gate before
8 she started to open the gate?

9 A. It looks like there was two seconds from
10 the time she shook the gate until the time the gate
11 was started to be opened.

12 Q. Okay. For a total of about four seconds?

13 A. I would think so, yes.

14 Q. Okay. Was that long enough to determine
15 if there were any dogs in the yard?

16 A. Apparently not.

17 Q. Were you ever trained to wait a certain
18 amount of time after shaking the fence?

19 A. No.

20 Q. Okay. That's not something that was
21 covered in that Humane Society training that you
22 talked about?

23 A. No.

24 Q. I'm going to back it up again and ask you
25 a couple more questions about the beginning here.



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2 Did you hear Officer -- I'm
3 sorry -- Sergeant Trenton say "I don't know if this
4 dog is deaf or not"?

5 A. I did hear her say that.

6 Q. Do you know what she was referring to?

7 A. I don't.

8 Q. Do you know if it was the dog that she saw
9 in the yard?

10 MS. JONES: Objection.

11 A. I -- I don't -- I really don't know what
12 she was referring to. I didn't see a dog prior to
13 approaching the gate.

14 Q. Okay. If a dog was deaf, then shaking the
15 gate wouldn't have helped, right?

16 A. Correct.

17 Q. But you didn't see a dog in the yard prior
18 to entering the yard, right?

19 A. No.

20 Q. If she was concerned about a potentially
21 deaf dog in the yard, then you should have done a more
22 thorough visual inspection of the yard prior to
23 entering, right?

24 MS. JONES: Objection.

25 You know, Sergeant Trenton was here



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2 yesterday. You could have asked her what she thought
3 about --

4 MR. SHIELDS: No one is asking questions
5 about the dog being deaf right now.

6 MS. JONES: You're asking about her
7 concern --

8 MR. SHIELDS: I'm not asking anything
9 about Sergeant Trenton or what she thought.

10 Okay. We don't need to fight.

11 Q. Can you please answer the question,
12 Officer?

13 A. Can you repeat it, please?

14 Q. Sure.

15 If you were concerned about a dog being
16 deaf in the yard, then prior to entering the yard you
17 and Sergeant Trenton should have conducted a more
18 thorough visual inspection to see if there were any
19 dogs present in the yard; is that fair?

20 MS. JONES: Objection.

21 A. I would say that's fair. But I would also
22 say that I wasn't concerned about a dog being deaf. I
23 don't know where that -- again, I don't know what she
24 meant by that comment or why she would be concerned
25 about a dog being deaf.



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1 OFFICER BRIAN CALA - BY MR. SHIELDS

2 Q. Okay. But in general, if a dog can't
3 hear, shaking a gate isn't going to do anything,
4 right?

5 A. I would say that's correct.

6 Q. Okay. I'm going to play -- I'm just going
7 to play from the beginning again because there's
8 another comment that I want to ask you about. So I'm
9 going back to the beginning of the video and hitting
10 play.

11 Did you hear yourself say "They said it
12 was running loose in the neighborhood"?

13 A. Yes.

14 Q. Okay. Who are you referring to when you
15 say "they"?

16 A. The caller, the information that we got
17 off the 911 dispatch card.

18 Q. So that's from the 911 dispatch card?

19 A. From the card, right. Obviously, I didn't
20 hear the tape or speak to the call taker.

21 Q. Okay. So when you entered the yard, you
22 thought that there could possibly be the dog in the
23 yard, the stray dog that had been called in?

24 A. Well, I said they were -- it was running
25 around the neighborhood. So they -- basically that it



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2 could be anywhere.

3 Q. It could be anywhere?

4 A. Right.

5 Q. Including in the yard?

6 A. Sure.

7 Q. Okay. We're paused at eight seconds. I'm
8 just going to back up one more time to the beginning
9 and ask you about one other comment.

10 And then Sergeant Trenton said "I saw
11 animal control pull down here too, but I don't know
12 where they went"; is that accurate?

13 A. It is.

14 Q. And did you speak with animal control
15 prior to entering the yard?

16 A. No, I didn't.

17 Q. Did you have any idea whether or not
18 animal control had responded to the scene?

19 A. No. I had no clue.

20 Q. Okay. I'm going to fast-forward in
21 Sergeant Trenton's video to time stamp 11
22 minutes -- or I mean 11 a.m. -- 11:54 and 55 seconds.

23 I got it paused at 11:54 a.m. and 3
24 seconds and it's 12 minutes and 19 seconds into the
25 video. So I'm going to hit play and then ask you some



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1 OFFICER BRIAN CALA - BY MR. SHIELDS

2 questions about the conversation. Okay?

3 A. Uh-huh.

4 Q. Did you hear yourself say "And that's why
5 we were inside the fence because after checking the
6 area we didn't see anything"?

7 A. Yes.

8 Q. Can you tell me everything you did to
9 check the area before you entered the fence?

10 A. I was observing the area as we arrived on
11 scene at the call. I didn't see a dog. I didn't see
12 a vehicle that was chasing a dog. So that's what I
13 meant when I said checked the area.

14 Q. Okay. So did you get out of your car?

15 A. Prior to approaching the house?

16 Q. Correct.

17 A. No.

18 Q. So when you say checking the area, you
19 mean when you drove up to 236 Belknap in your vehicle?

20 A. That's correct.

21 Q. Did you do anything else to check the
22 area?

23 A. I visually inspected the area as I
24 approached the house on foot.

25 Q. Okay. Do you remember the route that you



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1 OFFICER BRIAN CALA - BY MR. SHIELDS
2 drove in your vehicle when you approached the house?

3 A. I don't. I don't remember where I was
4 coming from prior to that.

5 Q. Do you know if you drove down on Hollis
6 Street?

7 MS. JONES: Objection.

8 A. I don't remember the -- the route at all
9 to be honest with you.

10 Q. So the extent of checking the area was
11 just driving up to the house and looking out the
12 windows of your vehicle?

13 A. As I -- correct. As I approached the house.

14 Q. Okay. So you didn't get out of your car
15 and talk to anyone, right?

16 A. That's correct.

17 Q. And you aren't sure if you drove down
18 Hollis Street?

19 MS. JONES: Objection.

20 A. That's correct.

21 Q. And you didn't see the stray dog in the
22 area as you approached the house, correct?

23 A. I did not.

24 (The following exhibit was marked for
25 identification: Number EXH 6.)



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1 OFFICER BRIAN CALA - BY MR. SHIELDS

2 Q. I want to just -- mostly to keep my
3 exhibits straight -- put up the incident report which
4 will be Exhibit 6 to this deposition.

5 Officer Cala, do you recognize this as the
6 incident report that you reviewed prior to coming here
7 today?

8 A. Yes, I do.

9 Q. It says that the date was June 10, 2018;
10 is that correct?

11 A. Yes.

12 Q. And the address was 236 Belknap Street?

13 A. Yes.

14 Q. Okay. So it says the time is 11:43, which
15 would be a.m., right?

16 A. That's correct.

17 Q. Okay. And do you know -- do you know if
18 the property was located at a corner property or
19 something else?

20 A. I do believe it was at a corner, yes.

21 Q. Okay. It's the corner of Belknap and
22 Hollis Street?

23 MS. JONES: Objection.

24 (The following exhibit was marked for
25 identification: Number EXH 7.)



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1 OFFICER BRIAN CALA - BY MR. SHIELDS
2 100 percent a dog that resides at that residence.

3 Q. Okay. Before entering the property, did
4 you consider that the trees and bushes in the yard
5 might make it harder and impossible even to see
6 whether there were any dogs in the yard?

7 A. Yes.

8 Q. And knowing that it was harder or
9 impossible to see if there were any dogs in the yard,
10 what did you do?

11 A. I was aware that you -- I may have
12 encountered a dog. I entered the property in an
13 attempt to speak with the caller.

14 Q. So you entered the property.

15 And when you entered the property, you
16 knew that there was a possibility that you might
17 encounter a dog?

18 A. That's correct.

19 Q. Okay. Knowing that you might encounter a
20 dog, you didn't think about walking around to the side
21 of the property to confirm whether or not there were
22 any dogs in the yard?

23 A. No. I -- I obviously did not.

24 Q. But you would have had time to do that,
25 right?



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1 OFFICER BRIAN CALA - BY MR. SHIELDS

2 A. Yes.

3 Q. Like this wasn't an emergency. There was
4 no rush to get inside and save someone's life,
5 correct?

6 A. That's correct.

7 Q. And you could have called
8 Ms. Anniszkiewicz on the number that she had given to
9 the dispatcher prior to entering the property?

10 A. Yes.

11 Q. But you chose not to do that?

12 A. I don't know that it was a conscious
13 decision to do that or not. But I entered the
14 property.

15 Q. You could have waited longer after
16 jiggling the fence to see if any people or dogs came
17 up?

18 A. Yes.

19 Q. You could have announced your presence,
20 yelled out police entering the yard before entering
21 the property?

22 A. Yes.

23 Q. Is there anything else that you could have
24 done?

25 A. Not that I can think of right now.



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1 OFFICER BRIAN CALA - BY MR. SHIELDS

2 Q. Does animal control usually respond to
3 calls about stray dogs?

4 A. Yes.

5 Q. Did you -- but you didn't reach out to
6 animal control to see whether or not they had
7 responded prior to entering the property?

8 A. No, I didn't.

9 Q. Do you ever call animal control to enter
10 the property with you when you're concerned that there
11 might be dogs there?

12 A. Not if I'm concerned that there might be
13 dogs. But if there's a confirmed dog in the property,
14 then I would, yes.

15 Q. Okay. I'm going to go back to your
16 interrogatory responses which are Exhibit 5.

17 I'm going to fast-forward to number 6
18 which says "Describe in detail the plan you devised
19 prior to entering Ms. Anniszkiewicz's yard, if any,
20 for what to do if you encountered a dog in
21 Ms. Anniszkiewicz's yard."

22 Your answer was "I did not devise a formal
23 plan with Sergeant Trenton prior to entering the yard.
24 We sought to contact the caller in order to provide
25 the requested assistance."



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1 OFFICER BRIAN CALA - BY MR. SHIELDS
2 to -- for what to do if you encountered a dog. It
3 doesn't say ops plan.

4 A. We encounter dogs frequently. Many things
5 on this job change rapidly, frequently. So
6 it's -- there was -- I interpreted that question to
7 mean did you come up with a plan of how you were going
8 to enter the yard. No.

9 We entered the yard in an attempt to
10 respond to a 911 call for service that was placed by a
11 person who needed the police.

12 Q. And it's important when you're carrying
13 out your police duties to be careful, right?

14 A. That's correct.

15 Q. And it's important not to unnecessarily
16 put people in danger, right?

17 A. That's correct.

18 Q. And it would be important not to
19 unnecessarily put people's pets in danger too, right?

20 MS. JONES: Objection.

21 A. That's correct.

22 Q. So if you've got indications that you
23 might more likely encounter a dog than in a different
24 situation when you know that you're not going to,
25 shouldn't you have some kind of plan for how to safely



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2 handle that situation?

3 MS. JONES: Objection.

4 A. Yes. I would want to handle every
5 situation safely.

6 Q. How would you have handled this situation
7 more safely prior to entering the yard?

8 A. I guess I would have walked around the
9 fenced area to observe whether there was a dog in the
10 yard on the other side that was not visible from the
11 side that I was entering.

12 Q. And it's my understanding that the
13 Rochester Police Department does not provide what are
14 called catch poles to its officers. Is that your
15 understanding?

16 A. That is correct.

17 Q. Do you know what a catch pole is?

18 A. I'm assuming it's the pole that's used by
19 animal control.

20 Q. Correct.

21 So you've never used a catch pole
22 yourself?

23 A. No, I haven't.

24 Q. Okay. Do you think it would be a good
25 idea for the Rochester Police Department to train its



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1 OFFICER BRIAN CALA - BY MR. SHIELDS

2 MS. JONES: Objection.

3 A. Depending on where in the backyard. I
4 believe I was in the side yard or the front yard at
5 the time of the shot.

6 Q. And you were in front of a few small steps
7 that led to a porch, correct?

8 A. That's correct.

9 Q. And could you see if there was anyone
10 behind the porch in the yard?

11 A. I could see past the porch, yes.

12 Q. But there were still obstructions past the
13 porch in the yard?

14 A. There were -- there was a lot of foliage
15 in the yard. I don't -- I do not remember seeing any
16 people as a backdrop. I don't remember seeing any
17 human beings behind the animal.

18 Q. Do you remember seeing a driveway past the
19 porch in the yard?

20 A. Yes.

21 Q. And do you remember seeing a four-year-old
22 child standing in the driveway?

23 A. No, I don't.

24 MS. JONES: Objection.

25 Q. If there had been a four-year-old child in



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1 OFFICER BRIAN CALA - BY MR. SHIELDS
2 weapon if there are potentially children nearby?

3 MS. JONES: Objection.

4 A. That is correct.

5 Q. And in your interrogatory response number
6 8 which asks "State whether you've ever owned a dog
7 and if so identify each and every dog that you've
8 owned, breed and how long you owned it," and you say
9 "My family has had a Maltese for 13 years but she's
10 more of my wife's dog."

11 A. That's correct.

12 Q. How would your wife feel if somebody
13 entered your property and shot your dog?

14 A. I'm sure she would not feel great about
15 it.

16 Q. Do you think she might bring a lawsuit?

17 MS. JONES: Objection.

18 A. I -- I don't know.

19 Q. Depends on the circumstances?

20 A. She may.

21 Q. I want to play your body-worn camera and
22 ask you some questions.

23 So we had paused your body-worn camera
24 previously right at the time stamp 11:42 and 7 seconds
25 and that 15 seconds into this video.



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2 As it's paused right here, can you see the
3 dog in the video?

4 A. Yes.

5 Q. And the dog is at the bottom of
6 those -- it looks like there's steps on the back of
7 the porch?

8 A. Correct.

9 Q. So I'm going to hit play and then I'm
10 going to pause it. And then I'm going to ask you some
11 questions.

12 Can you tell me what happened?

13 A. The dog advanced up the back stairs and
14 across the porch area towards where I was. And I was
15 standing on -- on the ground, which appears to be two
16 steps -- two to three steps below the level of where
17 the dog was. The dog took a short pause when it got
18 to the -- the edge of the porch right directly in
19 front of where I was standing and was barking and then
20 crouched down. And it appeared to start barking
21 again. And at that point is when I shot the dog.

22 Q. Do you see the dog crouched down in the
23 video?

24 A. If -- I believe you do if you watch it
25 frame by frame, so reversing from that point.



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2 Q. We'll rewind and go slo-mo.

3 Okay. So we went back. Let's see. We're
4 at 15 seconds. I'll go very slowly. So now we're
5 still at 15 seconds.

6 You can see the dog. And it looks like in
7 this -- at 11:42 and 7 seconds in the time stamp you
8 had -- the dog is on the porch and you had pulled your
9 gun out?

10 A. Correct.

11 Q. When you entered the property, your gun
12 was still in its holster?

13 A. Yes, it was.

14 Q. Is this the moment when you pulled out
15 your gun or was it slightly before this?

16 A. I'm assuming that's the moment that I
17 pulled it out.

18 Q. Okay. So if we go through this one second
19 right here, the dog comes up onto the porch. You
20 immediately pull out your gun, right?

21 A. That's correct.

22 Q. So just going slowly. Fast-forwarding.
23 And now at 11 minutes and 42 seconds or 11:42 and 10
24 seconds, you're off the porch, correct?

25 A. Yes. That's what it appears. I'm



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2 assuming that I am. It looks like I'm retreating away
3 from the dog.

4 Q. And now we're at 11:42 and 11 seconds.

5 Okay. It looks like the dog is shot at
6 this point, right?

7 A. I guess you can't see in the video.

8 Q. So you can't see in the video the dog
9 crouching at all.

10 But you can see in the video that the dog
11 had paused for a second, correct?

12 A. Correct.

13 Q. And do you think in that one second if you
14 hadn't had your gun out but something else that the
15 dog would have attacked you after it paused?

16 A. I don't -- are you implying the dog
17 attacked me because I had my gun out or if I had a
18 baton in my hand the dog wouldn't have attacked?

19 Q. You know what, that was a bad question.

20 But what I want to know is when the dog
21 paused, if you handled the situation differently at
22 that moment, do you think you could have avoided
23 shooting the dog?

24 MS. JONES: Objection.

25 A. Well, it's hard to tell what would have



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2 happened after that moment. So whether I struck the
3 dog or -- I don't know if that would have been
4 effective in ceasing the dog's aggression or -- and
5 the dog would have been shot anyway or if the dog
6 wouldn't have been shot. It's impossible to know
7 that.

8 Q. The dog wasn't charging at you, right? It
9 stopped its forward movement, right?

10 MS. JONES: Objection.

11 A. In that one second which is not when I
12 shot the dog.

13 Q. So you paused?

14 A. Correct.

15 Q. The dog paused.

16 And you believed after that that the dog
17 was going to attack you?

18 A. That's correct.

19 Q. And why did you believe that?

20 A. Because of the -- because of the dog's
21 aggression and the fact that he looked as
22 though -- the dog looked as though the dog was going
23 to lunge towards my direction.

24 Q. And have you ever been trained on how to
25 handle a situation like this where a dog is



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2 record clear.

3 A. Yes. Yes.

4 Q. This third page is just a bunch of
5 officers with dogs.

6 The fourth page "Objectives. Know the
7 common dog encounter scenarios that lead to dog bites.
8 Give four signs or actions to perform to determine
9 whether dogs are on the property. Identify how to
10 avoid dog bites. Recognize three physical signs of
11 aggressive dogs. Be familiar with improvised tools
12 for dealing with aggressive dogs. Known techniques to
13 minimize personal injury in the event you are
14 attacked."

15 So after reading the title of the
16 PowerPoint and the objectives, is it fair to say that
17 the main focus of this training was on avoiding dog
18 bites?

19 MS. JONES: Objection.

20 A. That -- it appears to be part of it.

21 Q. If we just go back to the first page, the
22 title of the program is "Dog Bite Prevention for Law
23 Enforcement," correct?

24 A. Okay. Yes.

25 Q. And before we go through all the slides,



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2 is that what you recall the focus of the training to
3 be?

4 A. I -- I guess so. I don't...

5 Q. As opposed to something else like hey,
6 this training is about specifically dog behavior?

7 A. Right. How to avoid -- sure. How to
8 avoid being bit by a dog while in the performance of
9 your duties.

10 Q. That's the main focus of the training,
11 correct?

12 A. It appears to be based on the title.

13 Q. Thank you.

14 Okay. And is this the slide that you were
15 referring to earlier?

16 A. Yes, it was.

17 Q. Which says in slide number 5 "Officers
18 will encounter a dog in at least one of three
19 residences."

20 Now, do you remember if that is specific
21 to the County of Monroe, to the City of Rochester, to
22 the United States of America or something else?

23 A. I don't know what the context of that
24 statement is.

25 Q. Okay. And this training, do you know if



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2 A. He began barking and rapidly closing the
3 distance between the dog and the officer.

4 Q. The dog charged at the officer?

5 A. That's -- yeah. That's an accurate
6 description.

7 Q. Did it appear that the dog ever paused as
8 it approached the officer?

9 A. No.

10 Q. It was running continuously at the officer
11 from the yard until the officer shot the dog, right?

12 A. Yes.

13 Q. And that dog was approaching Officer
14 Cummings in a more aggressive manner than Sampson was
15 approaching you on the date of the incident, right?

16 MS. JONES: Objection.

17 A. I don't see that as the case, no.

18 Q. Can you explain the difference or the lack
19 of any difference?

20 A. The dog -- first of all, there were two
21 dogs on the date of my incident that were rapidly
22 closing distance. And Sampson did take a pause and
23 then became aggressive again. And after monitoring
24 that situation and not shooting the dog as the dog
25 took a pause, I continued to try to back away from the



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2 dog in my case. The dog then became aggressive on a
3 second -- in a second offensive and -- and was a
4 threat again.

5 Q. How was Sampson aggressive before the
6 pause?

7 A. Before the pause, he rapidly closed the
8 distance charging towards me while barking and showing
9 teeth. As he approached the stairwell, went up the
10 stairs on his side, proceeded towards me across the
11 porch area and then -- and then took a pause as he was
12 at the top of the porch area near the stairs coming
13 down on the west side of the -- of the porch.

14 Q. So your testimony is that before the
15 pause, Sampson barked and showed his teeth?

16 MS. JONES: Objection.

17 That mischaracterizes his testimony.

18 MR. SHIELDS: Well, that's why I asked.

19 A. Yes. That did occur before and after the
20 pause.

21 Q. Do you remember yelling at Sampson after
22 he paused?

23 A. I remember saying something to the effect
24 of get the fuck back.

25 Q. And then Sampson barked at you?



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2 don't really remember anything from the training.

3 MS. JONES: Objection.

4 A. I testified that I don't remember specific
5 conversations that were held during the training. I
6 remember going to the training. And I have since
7 reviewed training materials.

8 Q. Is the only time that you've reviewed the
9 training materials in preparation for your deposition
10 today?

11 A. Yes.

12 Q. Are you aware of any of the training the
13 City of Buffalo has done regarding police officer
14 interactions with dogs?

15 A. I'm not.

16 Q. If I told you that in 2014 they
17 implemented specific training, in-service eight-hour
18 training that every officer in the City of Buffalo on
19 patrol is required to take and then immediately the
20 number of dogs shot by Buffalo Police Officers
21 drastically decreased, would that sound like the type
22 of training that could be helpful to the Rochester
23 Police Department?

24 MS. JONES: Objection.

25 A. Yes.



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2 you're on scene?

3 A. Correct.

4 Q. Okay. And then underneath that, I think
5 it's row 5, there's a dollar sign and 221B. Does that
6 mean that Sergeant Trenton now is on scene?

7 A. Correct.

8 Q. And the time of that is 11:40:30; is that
9 right?

10 A. Yes.

11 Q. So underneath that, I see in the comment
12 line "MISC:, REQ BOSS AND TECH." What does that mean?

13 A. That means that the dispatcher put on the
14 job card as a miscellaneous comment request boss and
15 tech.

16 Q. Why would a boss and tech be requested?

17 A. Because of the discharge of a weapon, I
18 requested a supervisor and a technician respond to the
19 scene.

20 Q. And what time did that occur?

21 A. 11:43 and 37 seconds.

22 (The following exhibits were marked for
23 identification: Letters EXH A and B.)

24 Q. Okay. That's all I have on that page.

25 Do you want to hand your copy to



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2 Ms. Stenographer so she has it for her records?

3 And I want to show you what we produced as
4 COR203.

5 So the first one we went over as COR201 is
6 Defendants' A and then B is the second one. That is
7 COR203.

8 Officer Cala, can you tell me what this
9 is, what this document is?

10 A. So this -- so I'm incorrect on this
11 first -- identifying the first. The second document
12 is the job card. The first document appears to
13 be -- how do I explain this? Showing the job card in
14 a new system that was -- that was implemented after
15 this incident took place. A new CAD system,
16 computer-aided dispatch system.

17 So it's showing roughly the same
18 information, but in a different format. The first
19 document being in the new system. The second document
20 being in the old system.

21 Q. So which one is closer to what you would
22 have seen at the time of the incident?

23 A. The second document.

24 Q. So COR203 in the bottom right-hand corner?

25 A. Yes. Correct.



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2 further back behind Sampson.

3 Q. Is Sampson the black dog?

4 A. Yes.

5 Q. Where did the other dog go after Sampson
6 was shot?

7 A. That dog turned around and proceeded to
8 head east in the yard towards the driveway.

9 Q. Do you remember anything else about the
10 other dog's behavior, actions or appearance in
11 addition to what you've already said?

12 A. Just that the dog -- just that both dogs
13 were advancing at rapid pace and barking.

14 Q. A few more follow-up questions on the job
15 card. My apologies.

16 If I'm understanding this correctly, it
17 looks like you and Sergeant Trenton arrived in
18 separate vehicles?

19 A. That's correct.

20 Q. Was anyone with you in your vehicle?

21 A. Yes.

22 Q. Okay. Who was that?

23 A. I had a civilian rider with me that day.

24 Q. Do you know the name of that civilian?

25 A. I don't remember her first name. But she



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2 was the daughter of one of my field training officers.

3 Q. Did the civilian rider get out of the car
4 with you on the date of the incident?

5 A. Yes, she did.

6 Q. Did she -- did the civilian proceed into
7 the yard with you and Sergeant Trenton?

8 A. Yes, she did.

9 MS. JONES: That's all the questions from
10 me.

11 MR. SHIELDS: I just have a couple of
12 follow-ups.

13 RE-EXAMINATION BY MR. SHIELDS:

14 Q. When you said that you saw
15 Ms. Anniszkiewicz's second dog, did you also see her
16 third dog in the yard?

17 A. No.

18 Q. Okay. So in total, you only saw two dogs
19 when you were on the property?

20 A. That's correct.

21 Q. The fact that you had the civilian
22 rider -- Delaney Glaze, that was her name, right?

23 A. Yes. That's her name.

24 Q. The fact that she entered this property
25 with you and you were showing her how you executed



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